

ST 01-0239-GIL 11/19/2001 REPLACEMENT VEHICLE TAX

A replacement vehicle tax of \$200.00 is imposed on purchases of passenger cars by insurance companies to replace passenger cars of insured persons in settlement of total loss claims. See 625 ILCS 5/3-2001 et seq. (This is a GIL).

November 19, 2001

Dear Xxxxx:

This letter is in response to your letter dated August 13, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), which can be accessed at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

Could you please explain what the section on page 25 of 'A guide for reporting sales using form ST-556, sales transaction return.

'Replacement Vheicle Tax:

What is required for a valid replacement vehicle transaction?

In paragraph 3, it states for the replacement vehicle transaction to be valid, the insurance company's check must be made payable either to the dealer and the insured person or simply to the dealer.

It goes on to say (on page 26) that a dealer cannot use the net insurance settlement amount to reduce the total price of a motor vehicle if the insurance company pays a cash settlement directly to the insured person. In this case, if the insured person purchases a motor vehicle from a dealer, sales tax is due on the total price of the motor vehicle sold.

What check are you talking about that should be made out to the dealership/insured?

If the insurance company pays off a leinholder and gives the remainder of the settlement in a check to the insured, do we then not use the RVT-7 and have to pay the tax due on the price of the vehicle they are buying to replace the totaled vehicle?

When Illinois dealers sell passenger cars to insurance companies to replace passenger cars of the insurance companies' insured persons in settlement of total loss claims, the Replacement Vehicle Tax applies. The Replacement Vehicle Tax, as set out at 625 ILCS 5/3-2001 et seq., imposes a tax of \$200.00 on the purchase of passenger cars when purchased in Illinois by, or on behalf of, insurance companies to replace passenger cars of insured persons in settlement of total loss claims.

This tax applies only when insurance companies purchase replacement vehicles for their own insureds. It does not apply when insurance companies pay cash settlements, directly to insureds, who then use the money to purchase replacement vehicles of their own choice. It also does not apply when an insurance company in settlement of a third party claim against its insured issues a check to purchase a replacement vehicle to replace a totaled vehicle that was damaged by its insured.

Therefore, the check by the insurance company used to purchase a vehicle to replace its insured's totaled vehicle, should be made payable to the dealer, or to the dealer and the insured. This is the check referred to by the Department publication about which you inquire. If an insurance company makes a check to the insured, who then uses those funds to purchase a replacement vehicle, then tax would be due on the selling price of the new vehicle.

When the Replacement Vehicle Tax applies, the purchaser insurance company, or broker for an insurance company, shall file a return with the Department of Revenue on a form RVT-7, and the insurance company must provide the dealer with copy 2 of it showing the net insurance settlement amount. The retailer deducts the "net insurance settlement amount" from the total selling price when calculating the amount subject to Retailer's Occupation and Use Tax.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Very truly yours,

Karl W. Betz
Associate Counsel

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